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State of Wisconsin
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Jim Doyle, Governor
Roberta Gassman, Secretary
Hal Bergan, Division Administrator

Statement of Hal Bergan
Administrator, Unemployment Insurance Division
Before the Assembly Labor and Industry Committee and
The Senate Labor, Elections and Urban Affairs Committee
On Assembly Bill 757 and Senate Bill 431

Chairman Coggs, Chairman Honadel, and members of the Committees. Thank you for the opportunity to speak in support of Senate Bill 431 and Assembly Bill 757. This legislation is the product of many months of study, negotiation and compromise by the members of the Unemployment Insurance Advisory Council. The bills before you carefully balance the concerns of employees and employers in maintaining an unemployment insurance system that serves the interests of our state. In times like these, with the national economy experiencing difficulty, it is particularly important that we strengthen our UI system in order to cushion the effects of adverse business cycles and continue to support our local economy.

The most pressing issue addressed in the legislation is the need to strengthen the Unemployment Insurance Reserve Fund, the repository of UI revenues and the source of funding for unemployment benefits. Over the last few years, beginning with the recession of 2001, the balance in the Reserve Fund has dropped from a high water mark of \$1.8 billion at the end of 2000 to a balance of \$554 million at the end of 2007. This downward trend is expected to continue and will accelerate in the event of an economic downturn.

Why is this happening? The most concise answer is that growth in the economy is generally reflected in growth in benefits. Benefit growth reflects increases in both the numbers of people working and in the amounts they earn. Revenues to the system do not grow in the same way.

Revenue growth reflects increases in the numbers of people working, but only picks up a fraction of their growth in earnings. For example, between 1990 and 2005 average weekly wages grew by 72%. Average taxable weekly wages grew by just 14% during that same period. This is because the unemployment insurance wage base has been unchanged at \$10,500 since 1986.

The bill addresses this problem by increasing the wage base from \$10,500 to \$12,000 in calendar year 2009. In 2011 it increases to \$13,000 and in 2013 it moves to \$14,000. This phased approach will strengthen the Reserve Fund incrementally over the course of the next ten years. It is a crucial step in ensuring the solvency of the UI system.

The bill also deals with another issue relating to the Reserve Fund. In Wisconsin most benefits are charged to a specific employer based on its layoff experience. The employer's tax rate then is based on the employer's experience with unemployment. However, as in all other states, some benefits are charged to the Reserve Fund as a whole. In addition to the employer's experience-based basic tax rate, a solvency tax is assessed to cover the benefits not charged to a specific employer.

Over the last few years, these solvency revenues have been substantially less than the amounts charged to the fund as a whole. The bill addresses this by reducing the basic tax rate on employers and increasing solvency taxes by the same amount. Overall tax rates stay the same, but the revenue is directed to those parts of the system that need it most.

Specifically, .2 percent is shifted from the basic rate to the solvency rate for positive balance employers. .4 percent is shifted from the basic rate to the solvency rate for negative balance employers. (A positive balance employer is one who pays more in taxes than the benefits charged to its account. A negative balance employer is one who pays in less in taxes than the benefits charged to its account.)

These two steps, taken together, will go a long way towards addressing Reserve Fund solvency. They are complemented by a freeze on maximum benefit levels for 2008 and a very modest increase of \$8 in 2009. In addition, the bill changes the standard for receiving UI benefits. Under current law, a claimant must have wages equal to 30 times the weekly benefit rate in order to qualify for UI benefits. Under the bill a claimant will be required to have wages equal to 35 times the weekly benefit rate in order to qualify for benefits.

There are other provisions of the bills that improve the administration and clarity of the UI law. Let me mention a few of them.

Equity between parents and adult children: Currently, adult children with little or no ownership in the family corporations of their parents are allowed full UI benefits when eligible whereas parents with little or no ownership interest in the family corporations of their children may receive only 4 weeks of benefits. The bill addresses this situation by treating parents and adult children the same for purposes of benefits so that parents with little or no ownership interest do not have benefits reduced.

Deferral of UI Taxes: Currently companies with more than \$5000 in UI tax liability in the first quarter can defer some of their taxes until later in the year. The deferral is automatic if an employer underpays for the first quarter. The bill makes more small employers eligible for a deferral by moving the threshold for deferring liability from \$5000 to \$1000. Employers who choose this option must file electronically and "elect" the deferral.

Penalties for UI Fraud: Penalties apply to UI claimants who commit benefit fraud, usually by concealing wages while receiving benefits. Current penalties range from 1/4 to 4 times the weekly benefit rate for each act. Penalties also apply to employers who aid and abet such concealment. Employers can be penalized up to the amount of benefits the claimant received. The bill increases the forfeitures for employers and claimants who commit UI fraud.

For claimants:

- 1st offense= 1 x benefit rate for each act
- 2nd offense = 3 x benefit rate for each act
- 3rd offense = 5 x benefit rate for each act

For employers that aid and abet fraud.

1st offense = \$500 for each act

2nd offense = \$1000 for each act

3rd offense = \$1500 for each act

Information technology and administrative expenses: Since 1999 a fee has been assessed for administrative expenses. This revenue, approximately \$2 million annually, has been used primarily for needed upgrades of the UI information technology systems. It expired on December 31, 2007. The bill extends the administrative assessment until June 30, 2010. The bill also authorizes the expenditure of up to \$1 million in Reed Act funds each year of the biennium for administrative expenses. This is a contingency appropriation to cover the possibility of significant reductions in federal administrative funds. Wisconsin collects only 54 cents on the dollar of federal unemployment taxes that are levied for administrative purposes. There would be a consultation with the Advisory Council before any of these funds are expended.

Electronic filing of wage and tax information: Currently employers with 50 or more employees must file their wage and tax information electronically. Beginning in the third quarter of 2008 the electronic filing threshold will be reduced to employers with 25 or more employees. Electronic filing saves administrative expenses for the program and provides more accurate wage and tax data than paper filing.

Misclassification of workers: Workers can be classified as employees who are eligible for Unemployment Insurance and Workers Compensation or as "independent contractors" who have no such eligibility. Misclassification of employees as independent contractors is common in industries such as construction, logging, trucking, and mortgage origination. As the labor market changes and different business models emerge, it is increasingly difficult to precisely classify workers. The bill establishes a study group to assess and suggest changes to the provisions of UI law dealing with independent contractors. The study group will report to the Unemployment Insurance Advisory Council by June 30, 2009.

There are also other changes in the bill that are described in the LRB summary. I am happy to answer any questions you may have.



Wisconsin Manufacturers & Commerce

Memo

TO: Members of the Senate Labor, Elections and Urban Affairs Committee
Members of the Assembly Labor and Industry Committee

FROM: James A. Buchen, Vice President, Government Relations

DATE: February 14, 2008

RE: Support for SB 430/AB 758 – Worker's Compensation Reform Legislation

Wisconsin Manufacturers and Commerce supports Senate Bill 430 and Assembly Bill 758, a package of workers reform initiatives developed by the Wisconsin Worker's Compensation Advisory Council.

Reforms in SB 404/AB 758

The primary focus of this legislation addresses benefits issues for injured Wisconsin workers. The bill provides an increase in disability benefits for both Permanently Partially Disabled claimants, as well as supplementary benefits for Permanently Totally Disabled claimants. The PPD and PTD benefit increase and supplement are designed to keep pace with the needs of injured workers, within the worker's compensation system's ability to provide those benefits.

In addition, the bill addresses a recent court decision that had created uncertainty regarding the application of the Worker's Compensation Acts application of the exclusive remedy provision as it relates to employees of temporary employment services working at the same worksite who cause an injury to the other. This legislation assures that the exclusive remedy provision of the Wisconsin Worker's Compensation Act applies to those situations.

The WCAC's Future Focus

The Wisconsin Worker's Compensation Advisory Council (WCAC) focused a great deal of its deliberations in the past two years on matters relating to the cost of providing health care services to Worker's Compensation claimants. Management Representatives on the WCAC would like to continue to focus on this area.

Benchmarking data provided by the Worker's Compensation Research Institute continues to show that health care costs in Wisconsin are rising at a faster pace than those costs in most other states. At the same time, Wisconsin continues to achieve better than average outcomes for injured workers. Thus, indemnity benefit costs appear to be offsetting the higher health care costs. However, over the longer term, if health care costs do not moderate, Wisconsin employers could face significant challenges to providing affordable worker's compensation insurance coverage to their workers.

Conclusion

In conclusion, WMC supports Senate Bill 430 and Assembly Bill 758, and urges the members of the Senate and Assembly Labor Committees to approve these bills.



Wisconsin Independent Businesses

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UI BILL TOUGH MEDICINE FOR SICK SYSTEM

February 14, 2008

**FOR: SENATE LABOR, ELECTIONS & URBAN AFFAIRS COMMITTEE
ASSEMBLY LABOR & INDUSTRY COMMITTEE**

Wisconsin's Unemployment Insurance system is ailing. SB 431 & AB 757 may restore the system's health. It is tough but necessary medicine that will raise taxes on every Wisconsin employer. It has to be done. Wisconsin Independent Businesses supports the bill.

During deliberations WIB, on behalf of the small, stable employers of Wisconsin, asked for consideration of two important issues. We asked that the tax increase be phased in and we requested that employers whose workers drain the system be held more responsible than stable employers. SB 431 & AB 757 deliver on both of those requests. We want to give special thanks to Representative Mark Honadel for his leadership in providing this protection for Wisconsin's most stable employers.

The tax increase is phased in with increases in 2009, 2011 & 2013. The phase-in allows the state's small employers to prepare their businesses to absorb the tax increase. Meanwhile, employers with a negative balance in their account – meaning their workers have drawn more in UI benefits than the business has paid in UI taxes – will have a greater portion of their UI tax paid toward the UI fund's "balancing account." The balancing account is that portion of the fund that has had a seriously negative balance in recent years.

The Unemployment Insurance Fund must be fixed. It is essential for workers and employers alike that a scenario akin to the disaster of 1983 be avoided. After many years of strong balances, created through adequate employer taxes and a modest annual benefit drain on the UI fund, the overall fund balance has declined significantly in recent years. The UI fund balancing account has had an especially bad run, leaving it with a significant negative balance.

WIB remembers too well the fund's insolvency nearly a quarter-of-a-century ago. That insolvency led to massive borrowing from the federal government and years of the highest UI tax rates in state history. As the national economy slumps, WIB remains anxious to avoid a repeat of 1983's devastating episode.

WIB believes Wisconsin's Unemployment Insurance System is facing its new challenges by assuring fairness for the state's most stable businesses. We question if the current fund crisis could have been avoided and we hope the legislature's labor committees will review that question. WIB promises to educate our members on the need for the tax increase and we hope the UIAC and the UI division will work to avoid any new UI fund crisis in coming years.